

GOVERNMENT OF ANDHRA PRADESH

A B S T R A C T

Suits-L.A.,SRBC, Nandyal Unit-Kurnool District-Pamulapadu (M)-Pamulapadu village- E.P.No. 145/06 in O.P.No.150/93-Decretal amount deposited in the court-Decree holders filed E.P.-Attachment of Government property for sale-Sanction orders-Issued

IRRIGATION & C.A.D. (PW: L.A.II) DEPARTMENT

G.O.Rt.No. 425

Dated: 01.07.2010
Read the following

1) From the Special Chief Secretary to Government & CCLA, A.P. Hyderabad

Lr.No. SRP4/1967/07, Dated: 20.04.2010.

2) Special Collector, SSP, Kurnool Lr.No. B6/714/2007, Dated: 18.3.2010.

O R D E R:

The Special Chief Secretary to Government & CCLA, A.P. Hyderabad and Special Collector, SSP, Kurnool in the references Ist and 2nd read above have submitted decretal charges proposal in O.P.No. 150/1993 and in A.S. No. 1901/98, Dated: 26.07.2000 for an amount of Rs. 24, 55,932/- for an extent of Ac. 6.28 cents in SY.No. 423 etc., through Award No. 24/89-90 dt.24.3.90 for excavation of SRBC Canal. The Special Collector, S.S.P. Kurnool has submitted the decretal proposal for an amount of Rs. 15, 24,721/- towards payment of balance decretal charges to be deposited in Lower Court in O.P. No. 150/93 in E.P.No. 145/06 pertaining to Pamulapadu Village and Mandal in Kurnool District in connection with the lands acquired in the above said village for excavation of Srisailam Right Branch Canal wherein an extent of Ac.6.28 cents has been acquired by the LAO vide Award No. 24/89-90, dated: 24.03.90 by fixing the market value of the lands under acquisition @ Rs.12,000/- per acre and Rs.3,500/- for Mulberry crop. The awardees dissatisfied with the compensation and filed petitions U/s.18 of the L.A. Act and the same were referred to the Civil Court for adjudication. In turn, the Senior Civil Judge, Atmakur enhanced the market value in O.P.No. 150/93 from Rs.12,000/- per acre for land value + 3,500/- Mulberry crop to Rs. 1,76,000/- per acre along with other benefits in their orders dated: 09.09.98. Since the enhancement is above 50%, appeals were filed in A.P. High Court. As per interim orders of High Court 1/3rd of the Decretal amount was deposited on 30.3.99. Finally, the High Court has dismissed the appeals and reduced the market value from Rs.1,76,000/- to Rs.1,62,000/- per acre in A.S.No. 1901/98 & Cross objections/2000, dated: 26.7.2000. Further, appeal was preferred in Supreme Court and the same has also been dismissed. Final Decretal amount of Rs. 24, 55,932/- was deposited in the Lower Court on 17.03.2006.

2) The Special Collector, SSP, Kurnool has stated that the Special Deputy Collector has further submitted that the Decree Holder after receiving the entire Decretal amount filed EP bearing No. 145/06 in O.P.No. 150/93 in Senior Civil Judge Court, Atmakur for realization of the decretal charges to a tune of Rs.16, 01,553/- by attachment of immovable properties of Government. The Assistant Government Pleader, Atmakur letter dated: 25.08.2007 has opined that the "the only stage we have to contest after the claimant's cheque petition and the Hon'ble Court cannot entertain any type of affidavits or counters at this stage and the LAO is asked to deposit the claimed amount subject to objection." Further the Special Deputy Collector has reported that the Senior Civil Judge, Atmakur has posted the case for further orders of sale of the immovable properties of the Government for realization of decretal amount due in O.P. No. 150/93.

3) The Special Collector, SSP, Kurnool has further stated that the budget proposals were sent to the Secretary to Government, I & CAD (PW.LA.II) Department, A.P. Hyderabad through C.C.L.A. for an amount of Rs 16,01,553/- towards decretal amount to be deposited in respect of E.P. No. 145/06 in O.P.No. 150/93 covered by Award No. 24/89-90, dated: 24.3.90 of Pamulapadu village and Mandal may be recommended to the Government for issuing suitable necessary orders in the matter.

4) The CCLA vide CCLA's letter dated: 07.12.2007 has informed that the above case was examined in the Legal Cell at CCLA's Office and the Commissioner, Legal Affairs has opined that "in this case the interest on solatium is claimed right from 16.05.1985, it is totally wrong. The execution court ought not have granted that interest. The A.G.P. or G.P. concern must be held responsible for the latches on their part for not bringing the judgment of APEX Court in Gurupreet Singh Vs. Union of India, which was reported on 19.10.2006 and it is a fit case to question the correctness of the order passed by the executive court in E.P. 145/2006, dated: 11.04.2007 and not appropriate orders" and requested the Special Collector, SSP, Kurnool to take necessary action immediately. Afterwards, as per the opinion of the A.G.P, Atmakur, the SDC has filed CRP No. 840/2008 in Hon'ble High Court of A.P. Hyderabad through Government Pleader for Arbitration and obtained stay orders on 28.04.2008 on condition of depositing 50% of the amount covered by the E.P. within the weeks from the date of the order. As per the orders of the Hon'ble High Court, the Special Collector vide Proceedings dated: 17.05.2008 has accorded sanction for Rs.8, 00,777/- towards 50% to be deposited in E.A.No. 18/2008 in E.P. No. 145/2006 against O.P.No. 150/1993 of Pamulapadu village and Mandal, Kurnool District and the S.D.C has deposited the above said 50% amount in the Court on 22.07.2008. Further, the SDC, SRBC, Nandyal has reported that the Hon'ble High Court in CRP No. 840/2008, dated: 09.09.2008 delivered judgment and remitted back the case to the Senior Civil Judge Court, Atmakur to decide the matter afresh. The Hon'ble Senior Civil Judge Court, Atmakur in E.P. No. 145/2006 in O.P.No. 150/1993 has issued orders on 04.11.2009 to deposit an amount of Rs. 15,24,721/- (Rupees Fifteen Lakhs Twenty four thousands Seven hundred twenty one only) towards the balance decretal charges in the above E.P. and the case is posted for sale of the Government property. The SDC, L.A. SRBC, Nandyal has further reported that he has verified the calculation made by the decree holder in consultation with the Assistant Government Pleader, Atmakur in E.P. No. 145/2006 in O.P.No. 150/1993 and in turn the AGP, Atmakur opined in their letter, dated: 20.11.2009 stating that the orders passed by the Senior Civil Judge Court, Atmakur in correct and there are no grounds for preferring appeal or revision. Further, the AGP has opined that as seen from the calculation statement made by the Hon'ble Supreme Court in Scale Judgment No. SCC.457-2006(10) scale-2006 A.I.R. SCW 5813/2007(4) ALD 105 SC. Finally, the SDC, SRBC, Nandyal has requested to sanction the balance decretal amount of Rs. 15,24,721/- which are allowed by the Hon'ble Senior Civil Judge Court, Atmakur in the above O.P to avoid the sale of the Government property.

5) The Special Collector, Srisailem Project, Kurnool has requested that the budget proposals for Rs. 15, 24,721/- (Rupees Fifteen Lakhs Twenty four Thousands Seven hundred twenty one only) towards balance decretal amount to be deposited in respect of E.P.No. 145/06 in O.P.No. 150/93 covered by Award No. 24/89-90, dated: 24.3.90 of Pamulapadu Village and Mandal, Kurnool District and recommended to the Government for according sanction of the required budget and to comply the orders of the Hon'ble Senior Civil Judge Court, Atmakur. The same amount was forwarded by the CCLA, A.P. Hyderabad to deposit the same in the Senior Civil Judge Court stating that AGP, Atmakur on 20.11.2009 had viewed that the orders passed by the Senior Civil Judge Court, Atmakur is correct and there are no grounds for preferring an appeal or revision, as the case is posted for sale of the Government property vide orders dated: 4.11.2009 in E.P. No. 145/06 in O.P.No.150/93.

6) After careful examination of the matter, Government hereby accord sanction of an amount of Rs. 15,24,721/-/- (Rupees Fifteen Lakhs Twenty four thousand Seven hundred twenty one only) towards payment of balance decretal charges to be deposited in Lower Court in O.P. No. 150/93 in E.P.No. 145/06 pertaining to Pamulapadu Village and Mandal in Kurnool District in connection with the lands acquired in the above said village for excavation of Srisailem Right Branch Canal, subject to verification whether the reference under Section 18 (1) of the L.A. Act is made to the Lower Court after following all the guidelines/directions on the subject and in case, it is detected that section 18 reference was made contrary to the rules/guidelines issued by the Government/CCLA, Hyderabad, immediate action should be taken to recover the loss sustained by the Government from the staff concerned and filing of restitution petition and also subject to confirmation of the CE as to the extent of land acquired. Further the Special Collector, SSP, Kurnool should verify the calculations made by the LAO, once again thoroughly with reference to the decree and instructions issued by the Government/CCLA, Hyderabad on the subject from time to time, before depositing the amount in the Lower Court.

7) The Special Collector, SSP, Kurnool is directed to deposit the above sanctioned decretal amount in the respective court after thorough verification of calculations made by the LAO once again at his level and also verify the decrees and decretal charges, if any, already paid duly deducting the Income Tax as per rules. He is also directed to follow the directions of Hon'ble High Court dated: 30.4.2007 in W.P.No. 2181/2005 in depositing the above sanctioned decretal amount in the respective court. He is directed to submit the Proceedings along with the Cheque No. deposited in the court immediately.

8) The amount sanctioned in para (6) above shall be debitable to the following Head of Account "2701-COL on Major and Medium Irrigation, 01-Major Irrigation (Commercial), M.H.123- SRBC - G.H.11- Normal State Plan, S.H.(27) C & D, 530 Major Works, 532-Lands (Charged)." In case, the available budget provision is not sufficient to meet the present requirement, the expenditure shall be met initially by way of advance from contingency fund subject to surrendering an equal amount from voted grant.

9) This order issues with the concurrence of Finance (W&P) Department vide their U.O.No. 2214/F5(A1)2010-1, Dated: 15.5.2010.

(BY ORDER IN THE NAME OF GOVERNOR OF ANDHRA PRADESH)

RAJIV RANJAN MISHRA,
SECRETARY TO GOVERNMENT

To

The Special Chief Secretary to Government & CCLA, A.P. Hyderabad

The Special Collector, SSP, Kurnool

The Special Deputy Collector, L.A. SRBC, Nandyal

The Engineer-in-Chief, Hyderabad

The Revenue Divisional Officer, Nandyal

The Superintending Engineer, I & CAD, Kurnool

The Director of Works and Accounts, Hyderabad

The District Treasury Officer, Kurnool

The Joint Director, Works & Accounts, Kurnool

The Pay & Accounts Officer, Kurnool

Copy to

P.S. to Minister (M & MI)

Law Department/Finance (W&P) Department

Secretary (RRM) Peshi

C.No. 11027/L.A.II/A1/2010

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//FORWARDED BY ORDER//

SECTION OFFICER.